

Lyons Inquiry into Local Government: Interim Response

1. The strategic role of local government

Questions

1. What is the strategic role of local government? Is my description sufficient, or are there more elements you would add?
 - Which elements of this role should extend to services other than those for which local government is directly responsible, and how?
 - How does the strategic role vary between different types of councils?
2. What tools do councils need to perform the strategic role more effectively?
 - What are the existing barriers to councils performing this role effectively?
 - In what circumstances does it work well and less well?
 - Are further improvements in performance, efficiency and accountability needed before local government can most effectively play this strategic role and be trusted to do so?
 - What are the key signs of success and failure?
3. How important is the fact that local government is elected in relation to its ability and legitimacy to perform this role?

Response

The “place-shaping” role

- 1.1 In our view, the description of “*place-shaping*” would be made more thorough and comprehensive by the inclusion of references to the ‘primus inter pares’ leadership and enhanced public service scrutiny roles. Councils are uniquely placed in the nation’s civil and public life, by virtue of their local democratic mandate, to fulfil the important function of holding to account a range of public services, which are not otherwise accountable to local people. Future councils will often be working in partnership with those whom they might also scrutinise (this is already the case in respect of our role in scrutinising the local NHS). Our experience has shown that robust governance arrangements and mature relationships can ensure the proper separation of the executive and scrutiny functions and ensure the function is discharged fairly and impartially, in the spirit of ‘critical friend’.
- 1.2 In terms of the extension of aspects of the strategic role into other locally-delivered public services which are currently outside the realm of democratically-accountable local government, we are still developing our thinking on how we can address the issue of ‘democratic deficit’. We will wish to respond more fully in due course but we believe that much could be achieved via a rationalisation of current partnership arrangements and, for instance, by the extension of local scrutiny on a voluntary, consensual basis. Given the clear electoral rejection of regional government (at least of the model on offer), it is opportune to consider how current arrangements for strategic local government can bring what can be broadly termed “regional services” within a local democratic mandate.

- 1.3 We envisage our role in relation to economic development as being somewhat broader than “working to make the local economy more successful”. With our extensive responsibilities for social and economic well-being, as well as safeguarding the environment, we would see the emphasis being on the sustainability of economic development, with a focus on employment growth in deprived areas. This, of course, involves a role in shaping and supplying a suitably-skilled workforce (through education, further and higher education and vocational training) as well as a role in stimulating the demand for employment. Local government is, we believe, better placed to do this in a strategic and “fine-grained” way than the current mix of regional and sub-regional single-focus bodies.
- 1.4 In the sense that “strategic” denotes a sense of planning, of taking the long-term view, then all councils are strategic. Put another way, “strategic” does not mean “big” any more than “local” means “small”. It seems, therefore, that the variation in “being strategic” between different councils and different types of council (i.e. parish, county, district, unitary, metropolitan or London borough) depends very much on how councils connect their understanding of their strategic role to *how* they set about delivering it. In turn, the different strategic approaches that different types of councils take are more likely to be influenced by their differing legal vires or by their political affiliations than by any notional ranking of capacity or capability by size or tier. The “strategic versus local” issue is a false dichotomy.

Effectiveness

- 1.5 The real issue, we believe, is not about lacking the tools but about lacking local freedom to deploy the tools we have. Arguably, the granting of well-being, trading and prudential borrowing powers have gone quite some way to remove some of the historical obstacles faced by councils in this regard. However, looking forward, the barriers to greater effectiveness are essentially the result of the incremental removal of the ‘local’ from ‘local government’ by successive governments, to the point where governance in the UK is one of the most highly centralised amongst western democracies. If councils are to fully perform the place-shaping role, they need to be freed up so that they can, for instance, set locally-identified priorities ahead of centrally-determined targets. Also, hand in hand with this, they need to re-acquire flexibility about resource-allocation and, where applicable, the means of locally rationing scarce services and goods, e.g. through eligibility criteria. Local councils also need to re-acquire the tools (the obligations and the resources) that have been taken from them in the process of setting up the growing number of unaccountable regional or sub-regional bodies, created to deliver central government’s policy objectives for what many would argue are essentially local services.
- 1.6 We will be responding separately in detail to the ODPM consultation on the frameworks for performance, inspection and regulation but wish to make the point here briefly that the government has conflated the three threads of activity to the detriment of all. We can not over-state the potentially negative impact on morale of a performance management regime which is over-prescriptive, over-detailed and designed to highlight failure. Left to its own devices, it stifles creativity, it inhibits innovation, it puts the emphasis on avoiding risks rather than grasping opportunities. Its processes are mechanical and debilitating. It creates public confusion about the benefits of localism and the values of diversity by its apparent fear of the “postcode lottery”.

- 1.7 Councils will invariably argue the case for a fairer funding system as an essential prerequisite to more effective delivery. That is to say, fairer in quantum and fairer in distribution. This will be covered in more detail later but suffice to say here that, in the absence of what we might accept is a “fair settlement”, councils should be given back greater flexibility to allocate resources in line with clear local preferences. Ring-fencing and hypothecation are unnecessary ‘blunt instrument’ constraints which diminish local ability to respond to local needs. We feel the funding settlement must be seen and be perceived to be handled properly and that must therefore include demonstrable robustness and transparency. We would welcome an ongoing discussion about robust methodologies for participative budgeting and a negotiated regime of checks and balances so that we can be held to account locally for local decisions.
- 1.8 Strategic local government is at its best when working with partners to achieve common objectives. A genuinely participative approach to developing our “Vision for Kent”, the Kent Agreement (which combines our second-generation Public Service Agreement and Local Area Agreement) and the development of the Kent Public Service Board are testimony to a joint willingness amongst all public (plus private and voluntary) sector partners to develop and deliver shared goals for the benefit of the people of Kent.
- 1.9 Another area of success and improvement has been around the use of ICT to deliver joined-up back and front office activities. Whilst this has an undoubted benefit in terms of generating efficiencies, arguably its greatest potential benefit is for the people who use our services, through the simplicity and convenience of public access through a single ‘portal’.
- 1.10 The question about further improvements in performance, efficiency and delivery and trust is, in our view, sadly symptomatic of much of the current centre/local debate. We have already commented that governance in the UK is more highly centralised than amongst fellow western democracies. If there is a perception that local accountability must be re-earned before it can be “entrusted” back to local government, this denotes an unhealthy and unequal relationship. Notwithstanding the few examples of significant failure, we should remember these are very exceptional. We simply do not believe there is evidence that the overall performance of local government is so poor that it must surmount more raised hurdles to prove its competence and reliability yet again. We are already beyond the point of what can be efficiently, effectively and accountably “managed” by Whitehall.

Democratic mandate

- 1.11 The fact that those who provide leadership and direction to local government (that is to say, local councillors) only hold office for as long as a universally-enfranchised electorate allow them to, is a fundamental public and democratic accountability. We believe it is absolutely crucial to the legitimacy of local government and view the decline in electoral participation across the piece as an unmistakable measure of public disaffection with, not just apathy about, public governance, both at national and local levels. We believe that the long term trend of centralisation of decision-making in public life has contributed to a sense of disenfranchisement. Whilst there will be many views about the electoral form best

suited to local democracy, there is, we believe, virtual unanimity that it is local democratic accountability that sets local government apart from – and above – other public service bodies.

2. Devolution and decentralisation

Questions

4. Which services (or parts of services) should meet national standards in all areas of the country? Which should meet minimum standards? Which should be entirely down to local choice?

- Are there aspects (such as standard setting, funding or choice of delivery mechanisms) of individual services which should be nationally controlled or locally controlled?
- Are there services where greater local variation in standards would be acceptable if there was clearer accountability and consultation with local people?

5. How has the Government's approach to devolution and decentralisation affected your area and your local services?

- Which aspects of the current system are helpful and unhelpful, and why?
- Have changes based on central government priorities differed from those that might have been driven by local pressure and opinion?

Response

Standards

2.1 We do not believe that the issue about service standards is as clear-cut as the wording of the question might suggest. There are significant differences between standards measured for *volume* or *quality*. There are significantly different issues if standards are being measured as *outputs*, as opposed to *outcomes*. Without wishing to debate the historical reasons in detail here, there can be little disagreement that in relation to 'iconic' public services such as health, policing or education, rising public expectations have been matched generally by falling levels of satisfaction. Similarly, the relationship between increased investment in public services and measurable performance improvement is deeply ambiguous, with the NHS being perhaps the best example.

2.2 We note (and this is a trend that goes back many decades) that it is often a single "public service failure" (from, for example, a high-profile child protection case to a major accident on the rail network) which precipitates the establishment of new – usually national and invariably higher – performance standards. Standards are at least partly contingent on the circumstances in which they are created and are not set in stone for all time. It is also noteworthy that there seems to be a stronger consensus in favour of national standards for what can be termed 'public safety' considerations (e.g. crime, traffic regulation, public health, water quality) than for service provision (e.g. library opening times, concessionary travel schemes and – very interestingly – the number of acute hospital beds per head of population, in the NHS).

2.3 Another argument has been advanced by some that national minimum standards can or should be circumscribed by the extent that the executive, ie the government of

the day, has a national mandate, as per its electoral manifesto commitments, to set them. The corollary is that quality standards or service levels beyond the national minimum standard is entirely a matter for local discretion, including, some would argue, the raising of local resources to fund the locally determined standard. This takes us into the realm of challenging some of the assumptions underpinning the rationale for capping.

2.4 Standards are thus arrived at by a series of negotiations, which reflect the balance of power between the range of interests involved and the prevailing consensus, at a particular time, about what is deemed the “public interest”. Since we subscribe to the principles of subsidiarity, it seems that the most sensible way of determining where service standards or eligibility criteria are best set is to recast the balance of power between the centre and local interests and let the negotiations continue on a case-by-case and contingent basis. This is the essence of public discourse. These are not matters which can be fixed at a single point in time. The need for such choices will continue into the foreseeable future. Our position is that, unless there is a clear-cut national interest, decisions are best made as close as possible to the people affected by them.

2.5 The other side of this coin is, of course, that local people are entitled to a say in what affects the local services they pay for and we have no argument with proposals for local councils continuing to raise their game in terms of community engagement and being held visibly to account.

2.6 In Kent, we have been early and enthusiastic participants in programmes for delivering Public Service Agreements and Local Area Agreements. Arguably, these initiatives are as much about more mature and equal relationships between central and local government as about devolution or decentralisation. Our leading role in the Innovation Forum has been testimony to this. We believe that by putting a stronger focus on high-priority areas for service improvement, especially service areas that require joined-up strategic approaches, we have collectively achieved a step-change in service delivery for the benefit of all people in Kent. This has also been underlined by our above-average, improving collective performance ratings over the last four or five years.

2.7 However, here is the paradox and the nub of our concerns. Our commitment to and sustained delivery of “stretched performance” has not been matched by any significant devolution by way of “freedoms” (i.e. reduction of inspection or performance management burdens) or “flexibilities (i.e. removal, by the key spending departments, of the regulatory obstacles to smarter performance). If anything, the steady drizzle of additional “initiative”-related performance-monitoring burdens, especially those required by unaccountable regional and sub-regional bodies, has continued unabated.

2.8 In response to the question about differing changes resulting from differing, indeed divergent, central and local priorities, there can be no clearer example of this than the impact of the regional housing growth strategy on Kent. This is not the place or time to rehearse the arguments but this has been a powerful demonstration of the lack of decentralisation and the subordination of clear local priorities to those of Whitehall. What has been particularly telling has been the limited power of local,

democratically-elected councils to hold decision-makers at the centre to account on decisions which materially affect their capacity to deliver local services.

3. Managing pressures on local services

Questions

6. How can pressures on local services be managed more effectively?

- What are the main types of pressures faced by local services and how are they currently managed?
- Which are the most difficult to manage and why?
- Would greater devolution of responsibility enable pressures to be managed more effectively?
- Do confusion about responsibility and duplication of effort contribute to pressures?
- Would greater public understanding of the actual cost of public services help to manage expectations and pressures?
- How can we ensure that the system provides the proper incentives and rewards for using resources efficiently?

Response

3.1 The main pressures faced by local services are demand and demographic changes, legislative changes and pressures caused by continuously raised public expectation over service delivery.

3.2 We face a growing elderly population, that increased longevity bringing with it growing numbers of people dependent upon personal social service care. We estimate that the demand pressure placed on social services by a person aged over 85 is approximately six times that of someone aged over 65 but under 84. Our annual budgeted increase in spending just as a result of increased demand for elderly disabled services at £5.2m is 0.7% of our budget requirement and alone is more than the increase in our total formula grant increase of £4.5m. We are constantly looking at re-engineering our service delivery to get the right mix of service delivery combining a mix of direct and contracted provision and seeking to care for more and more people in their own homes (this is cheaper than residential care and is a better service outcome for the elderly person too as they do typically want if at all possible to continue living in their own home).

3.3 We face a slowing of the rate of growth in the population at school age. We already have surplus school places. Yet proposals to close individual schools are invariably met with protest from those who have children at those schools. We are fully aware of the impact of a school closure and do not take such decisions lightly but have to balance individual preference with what is cost effective for the taxpayer.

3.4 In summary we can not directly control the demand pressures but we look to modify our service delivery to best achieve value for money in delivery to free up resources to meet some of this cost pressure.

3.5 In theory legislative pressures placed upon local government should be funded by additional grant under the New Burdens Doctrine.

- 3.6 “A new burden is defined as any new policy or initiative which increases the cost of providing local authority services. The new burden need not necessarily arise as a result of a proposed statutory duty. For example, guidance to act can result in additional costs falling on local authorities, putting pressure on council tax. Government as a whole are committed to ensuring new burdens falling on local authorities are fully funded. This commitment is called the New Burdens Doctrine.”
- 3.7 The reality can often be somewhat different for individual authorities as a result of the formula grant funding mechanism. A recent simple example is that of the Waste Electronic and Electrical Equipment Directive. Between consultation and final 2006-07 grant settlement £12m was added nationally to local government funding by government to cover the burden . KCC saw its grant go down between consultation and final settlement. There were other technical changes between consultation and final settlement but the primary reason that KCC did not benefit was that it was, in common with many other authorities, floor funded. The overall level of grant therefore remained at the floor. Government would contend that funding was provided because the level of floor damping grant would reduce as a result of any underlying increase in basal entitlement to grant and that over the longer term an individual authority would be out of the damping mechanism sooner. That is of course true but it misses the point that in the very short term the individual floor funded authority is left with no more grant but real additional costs to pay immediately.
- 3.8 Our market research work typically identifies that the public do not generally want to pay more tax but want increased and better quality public services. Delivering service enhancements without increased grant funding or without raising council tax means we have to find compensating savings and efficiencies in other parts of our spending to free up resource for reinvestment in front line service enhancements. We also typically find that when the public are given more information about the costs of services, what it provides and the overall funding position that they are then prepared to pay more in tax than they would have originally stated if it can be linked to clear and demonstrable service improvement.
- 3.9 Greater devolution of responsibility for services and more importantly funding those services would help pressures to be managed more effectively. We begin our budget and medium term planning process every summer and look to have completed the bulk of our strategic work by November. Yet that has to be entirely reliant upon the level of government funding and pronouncements on likely level sat which tax rises will be capped. We then get an announcement in early December on funding and ministerial comments on capping and a final settlement at the end of January. All too often the grant allocation and movements between consultation and final settlement can feel like a lottery and can mean strategic plans are derailed at relatively near the last minute.
- 3.10 Closer devolution to a more local level would also offer the scope for closer integrated services at that local level, we think particularly in terms of closer integration with Health.
- 3.11 We do not think that confusion around responsibility and duplication of effort materially contributes to the pressures we have identified. Key pressures identified by HM Treasury and the Local Government Association (which are in common with

our own experiences) are in the fields of pay, Waste Management and Adult Social Care. There are also pressures on highways and capital spending. In the case of highways, that pressure is exacerbated by the last spending review setting out government's planned zero increase in funding for highways services for 2006-07 and 2007-08. Capital spending is becoming more problematic because of the way the new formula funding works which means that effectively authorities, such as Kent, who are floor funded no longer get any additional revenue grant support to cover the costs of servicing capital expenditure met by debt, which has been borrowed on the back of government "supported" borrowing.

- 3.12 We are also concerned, in common with many other authorities, over the longer term funding issues of capital investment, especially for schools (PFI costs, the Building Schools for the Future Programme and the government's Education White Paper which could mean leaving the costs of funding capital investment with the Local Education Authority but the potential for individual schools to stand alone from LEA control).
- 3.13 Local Public Service Agreements, Performance Reward Grant and the Local Authority Business Growth Incentive Scheme all provide good examples of additional reward grant for authorities. The Gershon Efficiency agenda already has the founding principle that any efficiencies that are driven out are available for reinvestment in local services and are not top sliced back to HM Treasury. These all provide incentives for local government to work harder and smarter and deliver efficiency and innovation. These principles should be inbuilt in all future funding systems.
- 3.14 It is unfortunate, however, that at the same time as beginning in these innovations, the allocation of formula grant continues to be administered and delivered in such a way as to almost seem, in some aspects, to penalise efficiency and performance. The item that most offends and contradicts the principle of rewarding efficiency is the resource equalisation component which transfers money away from low spend areas to high spend areas purely on the basis of past historical high spending. Now whilst an element of high spend could be seen as indicative of need compared to a low spend area it does of course also provide an incentive to keep spending high and a complete disincentive to other areas to try and keep spending low. It also takes no account of the policy decisions underlying such spending or the level and quality of service being delivered by such spending.

4. Scope for a new agreement

Questions

7. How could responsibility for local services be made clearer between local government, central government and other agencies?

- What might this mean for the current performance management framework?
- Would a more contractual approach for a small number of key central priorities help to achieve this?

Response

- 4.1 Along with greater clarity about how local services are funded, we do need to be able to distinguish more clearly about who does what in the public sector. Life in today's society is undoubtedly complex but it would be naïve to suppose this complexity can be wished away and patronising to suppose the great majority of people are not accustomed to handling it. Notwithstanding any future technical, financial, legislative, functional or structural changes that may take place, much could be achieved by both councils and government doing a better job in working together to provide quality public information and simplifying access to public services using new technologies. Through "Kent Connects" and other web-based initiatives, councils in Kent are already well down the road of delivering improvements to joined-up public access and information.
- 4.2 We would argue that a managed approach to reducing the number of unaccountable regional and sub-regional 'delivery bodies' and devolving their responsibilities back to councils, using their extensive 'well-being' powers, is a necessary element of the new localism. Entrusting councils to commission the provision of those services from an equitable level playing-field of providers will require a radical overhaul of the inspection and performance management regimes in order to focus almost exclusively on outcomes, based on a much smaller number of negotiated targets. It also needs to be said that the reduction of regional and sub-regional unelected delivery bodies would have the undoubted benefit of eliminating their contribution to the seemingly unchecked proliferation of performance indicators, over and above those stipulated by departments in Whitehall
- 4.3 In the course of background work preparing its response to the recent ODPM consultation on the future of local services inspection, the County Council has calculated that, in order to comply with the data requirements of all inspection, regulatory and performance assessment frameworks (eg Joint Area Review, CPA, Delivery Improvement Statement etc etc), well over 1000 separate data items have to be calculated and returned to central departments and regional offices and bodies in the course of the year. This cannot be sensible. On the one hand we have been promised a 'lighter touch' performance framework in return for high performance. On the other hand, despite our continuous high performance, we have not experienced a lessening of the burden – if anything, it continues to grow by increments, sometimes for no reason other than the inability (some suspect unwillingness) of different inspection and regulatory bodies to better harmonise their activities.
- 4.4 Two other actions would also help improve matters. First, raising the profile of local political leaders and members and, secondly, devolving accountability from the centre (as well as resources and functions) will go some way towards clarifying where responsibility actually resides. When "things go wrong", as in the recent Monckton murder case, it was noteworthy to observe the Home Secretary publicly accepting responsibility for what were essentially, in our view, operational failures within, inter alia, the London Probation Service.

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